



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,878	12/11/2000	Sture Roos	2483-25	2175

7590 09/07/2004
NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

EXAMINER

ZHENG, EVA Y

ART UNIT PAPER NUMBER

2634

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,878

Applicant(s)

ROOS, STURE

Examiner

Eva Yi Zheng

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/21/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-42 is/are allowed.
- 6) ☒ Claim(s) 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/21/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Examiner's Objection to Drawing has been withdrawn due to Amendment.
2. Examiner's Objection to Specification has been withdrawn due to Amendment.
3. Applicant's arguments filed on June 21, 2004, have been fully considered but they are not persuasive. The Examiner has thoroughly reviewed Applicant's arguments but firmly believes that the cited reference reasonably and properly meet the claimed limitation as rejected.

a) Applicant's argument – McHale lacks both “ a pool of xDSL compatible modems and xDSL filters forming a first group” and “ a second group of direct access, xDSL compatible modems separate from the first group.

Examiner's response – McHale disclose a xDSL modem pool (510 in Fig. 10 A) and xDSL filters (170 in Fig. 5) forming a first group, including (as shown in Fig. 10A) data lines (54), line interfaces (500), detectors (508), controller (80) and modem pool (510). A second and separate group of direct access xDSL compatible modems is shown in Fig.10A, including data lines (54), line interfaces (500), switching matrix (502) and modem pool (510).

b) Applicant's argument – The net terminal in claim 17 further includes both a xDSL compatible modem as well as “a second modem for initial installation of the connection, which is monitored and controlled by a controller unitl a connection is established.”

These features are also lacking from McHale.

Examiner's response – McHale disclose a second modem (inherent as telephone interface, 20 and 24 in Fig. 1) for installation of the connection, which is monitored and controlled by a controller (80 in Fig. 10A).

c) Applicant's argument – McHale also lacks features from independent method claim 24.

Examiner's response –

- Regarding claim 24, McHale discloses a method in a telecommunication system for providing access to telecommunication services to subscribers at user terminals, each of which being separately connected to at least one access point via a net terminal including an XDSL compatible modem, and a communication network, the at least one access point comprising XDSL compatible modems with filters, comprising:

transmitting a signal from an net terminal (24 in Fig. 1) including a user terminal (12 in Fig. 1) identity to a controller (80 in Fig. 10A);

searching, by the controller, for an available connection path for the net terminal at an access point (508 in Fig. 10A);

creating, by the controller, a bi-directional broadband data transmission path between the user terminal and the at least one access point using a second modem connection of the net terminal for initial installation of the broadband data transmission path (504 and 506 in Fig. 10A);

activating, by the controller, the transmission path between the user terminal and the at least one access point (84 in Fig. 10A); and

transferring, (86 in Fig. 10A), by the controller, at least one connection between the user terminal (12 in Fig. 1) and the access point from a first group of pooled XDSL compatible modems (500, 508, 80 and 510 in Fig. 10A) with associated filters (170 in Fig. 5) to a second group of XDSL compatible modems with direct access (500, 501 and 510 in Fig. 10A), whereby at least one new pre-provisioned broadband access point is made available (62 in Fig. 10A).

Drawings

4. The drawings are objected to because on Fig. 1 and Fig. 2, block 65 "Line Cords" should be changed to -- Line Cards --. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 25 is objected to because of the following informalities: recitation:

“according to claim 23” should be changed to --according to claim 24--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 17-23 provides for the use of a telecommunication system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 17-23 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by
McHale et al. (US 6,014,431).

a) Regarding claim 24, Mchale discloses a method in a telecommunication system for providing access to telecommunication services to subscribers at user terminals, each of which being separately connected to at least one access point via a net terminal including an XDSL compatible modem, and a communication network, the at least one access point comprising XDSL compatible modems with filters, comprising:

transmitting a signal from an net terminal (24 in Fig. 1) including a user terminal (12 in Fig. 1) identity to a controller (80 in Fig. 10A);

searching, by the controller, for an available connection path for the net terminal at an access point (508 in Fig. 10A);

creating, by the controller, a bi-directional broadband data transmission path between the user terminal and the at least one access point using a second modem connection of the net terminal for initial installation of the broadband data transmission path (504 and 506 in Fig. 10A);

activating, by the controller, the transmission path between the user terminal and the at least one access point (84 in Fig. 10A); and

transferring, (86 in Fig. 10A), by the controller, at least one connection between the user terminal (12 in Fig. 1) and the access point from a first group of pooled XDSL compatible modems (500, 508, 80 and 510 in Fig. 10A) with associated filters (170 in Fig. 5) to a second group of XDSL compatible modems with direct access (500, 501 and 510 in Fig. 10A), whereby at least one new pre-provisioned broadband access point is made available (62 in Fig. 10A).

b) Regarding claim 25, McHale discloses a method in a communication system, further comprising:

monitoring (508 in Fig. 10A), by the controller, available access points in the first group of pooled XDSL compatible modems with associated filters; and

transferring subscriber connections from one access point in the communication system to another access point (512 and 86 in Fig. 10A), whereby access points in the pool of modems (510 in Fig. 10A) are made available for new subscribers.

Allowable Subject Matter

10. Claims 26-42 are allowed.

11. The following is an examiner's statement of reasons for allowance:

None of the prior art teaches or suggests that a telecommunication system comprises transferring a bi-directional broadband data transmission connection from one xDSL modem of the modem pool to another, direct access xDSL modem.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eva Yi Zheng whose telephone number is (571) 272-3049. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-879-9306.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

September 1, 2004

Eva Yi Zheng
Examiner
Art Unit 2634



**SHUWANG LIU
PRIMARY EXAMINER**